

1 ARIZONA CAPITAL REPRESENTATION PROJECT

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14 Attorneys for Plaintiff

15 UNITED STATES DISTRICT COURT

16 FOR THE DISTRICT OF ARIZONA

17 SCOTT DOUGLAS NORDSTROM,

No. CV-15-02176-PHX-DGC (JZB)

18 Plaintiff,

19 vs.

20 STIPULATION AND NOTICE OF
21 SETTLEMENT

22 CHARLES RYAN, DIRECTOR, ARIZONA
23 DEPARTMENT OF CORRECTION; JAMES
24 O'NEIL, WARDEN, ASPC EYMAN; STACI
25 FAY, DEPUTY WARDEN, BROWNING
26 UNIT,

27 Defendants.
28

29 Plaintiff and Defendants, by and through counsel, submit the following stipulation and
30 notice to the Court of settlement. The following stipulation sets forth the essential terms of
31 the settlement, and shall be binding and enforceable on the parties. As more fully set forth
32 below, the settlement contemplates and requires implementation through a formal amendment
33 to Arizona Department of Corrections Order 801 ("D.O. 801") and Director's Instruction 326
34 ("D.I. 326"), to be completed within 120 days, and the parties have agreed that the Court shall

1 retain jurisdiction to enforce this stipulation of settlement, pending finalization of such
2 amendments and submission of a final order of dismissal to the Court.

3
4 The terms of the parties' settlement are as follows:

5 1. D.I. 326 and D.O. 801 shall be modified to eliminate the existing permanent
6 classification of inmates with a death sentence to maximum custody units, and to permit
7 death row inmates to seek and obtain re-classification to close custody status based on the
8 criteria currently available to non-death sentenced maximum custody inmates.

10 2. Death sentenced inmates who are re-classified to close custody status may
11 be housed as a group, rather than with non-death sentenced inmates, provided, however,
12 that nothing herein shall alter existing protocols and procedures relating to protective
13 custody assignments.

15 3. The conditions and restrictions of confinement, and quality of facilities,
16 utilized for close custody housing for death sentenced inmates shall be equivalent to that
17 of existing close custody housing facilities used for non-death sentenced inmates. Further,
18 the facilities housing close custody death sentenced inmates shall provide adequate space
19 for confidential communication with legal counsel. Any additional policies or regulations
20 not otherwise specified herein shall be amended as necessary to implement these
21 conditions.

23 4. D.O. 910 shall be amended to exempt death sentenced inmates classified as
24 close custody from participation in the functional literacy program.
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1 5. The amendments to D.I. 326, D.O. 801, and D.O. 910 contemplated herein
2 shall be completed and implemented within one hundred twenty (120) days.
3

4 6. Plaintiff's current disciplinary record meets the criteria for reclassification to
5 close custody and he shall be reclassified to such status and transferred to such housing
6 upon adoption of the above referenced amendments, and within one hundred twenty (120)
7 days of this stipulation. Nothing in this stipulation shall be interpreted to require Plaintiff
8 to remain classified as a close custody inmate if he no longer meets the requirements for
9 close custody classification.
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11 7. This stipulation establishes a binding settlement that may be specifically
12 enforced by the parties through injunctive or other appropriate equitable relief, and
13 resolves Plaintiff's claims regarding his existing conditions of confinement as set forth in
14 the complaint. Nothing herein shall be construed as a future waiver of rights regarding
15 the adequacy of conditions at the facility(ies) to which Plaintiff is transferred and housed
16 in the future.
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18 8. The existing scheduling order deadlines established in the matter shall be
19 vacated, and the Court shall set a status conference in approximately one hundred fifty
20 (150) days at which conference the parties shall report to the Court on the status and
21 implementation of the amendments and terms described above, and whether this matter
22 may be dismissed or further enforcement of this settlement is required.
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1 9. The parties reserve their respective rights and positions with respect to
2 attorneys' fees and costs, which issue shall be separately negotiated and, if no agreement
3 is reached, submitted for resolution by the Court.
4

5
6 RESPECTFULLY SUBMITTED this 3rd ^{March} day of ~~February~~, 2017.
7


8 ARIZONA CAPITAL REPRESENTATION
9 PROJECT

10 By: 
11 Sam Kooistra
12

13 JACKSON & ODEN, P.C.
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15 By: 
16 Todd Jackson
17 Attorneys for Plaintiff
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19 Michael Gottfried
20 Assistant Attorney General

21 By: 
22 Michael E. Gottfried
23 Attorneys for Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on ~~February~~ March 3, 2017, I electronically transmitted the attached document to the Clerk of the Court using the ECF System.

I hereby further certify that on the same date, I served the attached document and Notice of Electronic Filing by mail on the following, who is not a registered participant of the CM/ECF System:

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